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REGISTER OF ACTIONS

CASE No. D-202-CV-2015-03778

Patricia Cabrera v. Wal-Mart Stores East LP

~~~~~

Case Type: Tort  
Date Filed: 05/05/2015  
Location: Bernalillo County  
Judicial Officer: Malott, Alan

## PARTY INFORMATION

**Defendant**      **Wal-Mart Stores East LP**

**Attorneys**  
**Alana M. De Young**  
*Retained*  
505-848-1800(W)

Megan A. Muirhead  
*Retained*  
505-848-1853(W)

**Plaintiff**                      **Cabrera, Patricia**

**Thomas M. Allison**  
*Retained*  
505-242-3333(W)

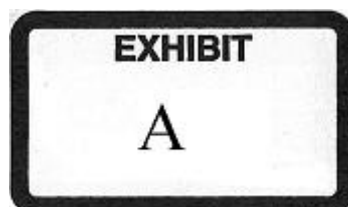
## EVENTS & ORDERS OF THE COURT

## OTHER EVENTS AND HEARINGS

|            |                                                       |                                       |
|------------|-------------------------------------------------------|---------------------------------------|
| 05/05/2015 | <b>Cause Of Actions</b>                               | Tort: Personal Injury Non Auto        |
|            | Action Type                                           | Action                                |
| 05/05/2015 | <b>Cause Of Actions</b>                               | Other Damages                         |
|            | Action Type                                           | Action                                |
| 05/05/2015 | <u><b>OPN: COMPLAINT</b></u>                          |                                       |
| 05/05/2015 | <u><b>ARB: CERT NOT SUBJECT</b></u>                   |                                       |
| 05/06/2015 | <u><b>JDG: JUDGE EXCUSAL/PEREMPTORY CHALLENGE</b></u> | (Judicial Officer: Lopez, Victor S. ) |
| 05/06/2015 | <u><b>NTC: JUDGE ASSIGNMENT</b></u>                   | (Judicial Officer: Malott, Alan )     |
| 05/13/2015 | <b>Summons</b>                                        |                                       |
|            | Wal-Mart Stores East LP                               |                                       |
|            |                                                       | Served 05/28/2015                     |
|            |                                                       | Response Received 06/23/2015          |
|            |                                                       | Returned 06/16/2015                   |
| 06/04/2015 | <u><b>ENTRY OF APPEARANCE</b></u>                     |                                       |
| 06/04/2015 | <u><b>DISCOVERY</b></u>                               |                                       |
| 06/16/2015 | <u><b>SUMMONS RETURN</b></u>                          |                                       |
| 06/23/2015 | <u><b>ANSWER</b></u>                                  |                                       |
| 06/23/2015 | <u><b>JURY DEMAND 12 PERSON</b></u>                   |                                       |
| 07/01/2015 | <u><b>DISCOVERY</b></u>                               |                                       |

## FINANCIAL INFORMATION

|            |                                          |                           |                         |             |
|------------|------------------------------------------|---------------------------|-------------------------|-------------|
|            | <b>Defendant</b> Wal-Mart Stores East LP |                           |                         |             |
|            | Total Financial Assessment               |                           |                         | 300.00      |
|            | Total Payments and Credits               |                           |                         | 300.00      |
|            | <b>Balance Due as of 07/08/2015</b>      |                           |                         | <b>0.00</b> |
| 06/24/2015 | Transaction Assessment                   |                           |                         | 300.00      |
| 06/24/2015 | File & Serve Payment                     | Receipt # ALBD-2015-19089 | Wal-Mart Stores East LP | (300.00)    |
|            |                                          |                           |                         |             |
|            | <b>Plaintiff</b> Cabrera, Patricia       |                           |                         |             |
|            | Total Financial Assessment               |                           |                         | 132.00      |
|            | Total Payments and Credits               |                           |                         | 132.00      |
|            | <b>Balance Due as of 07/08/2015</b>      |                           |                         | <b>0.00</b> |
| 05/05/2015 | Transaction Assessment                   |                           |                         | 132.00      |
| 05/05/2015 | File & Serve Payment                     | Receipt # ALBD-2015-13862 | Cabrera, Patricia       | (132.00)    |



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DISTRICT COURT CLERK  
5/5/2015 1:23:16 PM  
James A. Noel  
Chris Peck

**STATE OF NEW MEXICO  
COUNTY OF BERNALILLO  
SECOND JUDICIAL DISTRICT COURT**

**PATRICIA CABRERA,**

**Plaintiff,**

**v.**

**NO. D-202-CV-2015-03778**

**WAL-MART STORES EAST, LP**

**Defendant.**

**COMPLAINT FOR MONEY DAMAGES**

COMES NOW Plaintiff, by and through her attorneys, Whitener Law Firm, P.A., (Thomas M. Allison, Esq.) and for her Complaint for Money Damages, states as follows:

1. Plaintiff is a resident of Albuquerque, County of Bernalillo, State of New Mexico.
2. Upon information and belief, Wal-Mart Stores East, LP ("Wal-Mart") is a foreign for-profit corporation doing business in Bernalillo County, State of New Mexico.
3. The incident giving rise to the instant Complaint occurred in the County of Bernalillo, State of New Mexico.
4. This Court has jurisdiction over the subject matter and named parties in this action. Venue is properly laid in this Court.
5. On or about May 23, 2014, Plaintiff was a legal visitor on Wal-mart's premises ("the premises"), a retail store ("store") located at 10224 Coors Bypass in Albuquerque.

6. On May 23, 2014, while on the premises (attempting to exit the store), she tripped and fell on a raised transition strip or threshold on the floor. The transition strip or threshold was also in disrepair.

7. As owner and/or occupier of the premises, Wal-mart owed Plaintiff the duty to use ordinary care to keep the premises safe for use by Plaintiff.

8. At the time of this incident, the raised transition strip or threshold, which was in disrepair, constituted a dangerous condition.

9. Defendant owed Plaintiff a duty to use ordinary care to keep the premises safe for her use.

10. Defendant breached its duty to Plaintiff by failing to use ordinary care to keep the premises safe for her use.

11. Defendant's negligence includes, but is not limited to, failing keep the walking surface of the floor safe.

12. The incident described above occurred as a direct and proximate result of Defendant's negligence (which may be shown, *inter alia*, by means of circumstantial evidence or *res ipsa loquitur*).

13. Plaintiff suffered significant and permanent injuries and damages as a direct result of this incident.

WHEREFORE, Plaintiff prays for a money judgment against Defendant in an amount to be determined at time of trial to include, but not limited to: past and future medical expenses, past and future pain and suffering, permanent impairment, pre- and

post-judgment interest, costs, and such other and further relief as the Court deems just and proper.

Respectfully submitted,

WHITENER LAW FIRM, P.A.

 Electronically Signed

---

Thomas M. Allison, Esq.  
*Attorney for Plaintiff*  
4110 Cutler Avenue N.E.  
Albuquerque, NM 87110  
(505) 242-3333/Fax (505) 242-3322  
Email: [tm5052002@yahoo.com](mailto:tm5052002@yahoo.com)

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James A. Noel  
Chris Peck

STATE OF NEW MEXICO  
COUNTY OF BERNALILLO  
SECOND JUDICIAL DISTRICT COURT

PATRICIA CABRERA,

Plaintiff,

vs.

NO. D-202-CV-2015-03778

WAL-MART STORES EAST, LP,

Defendant.

**COURT-ANNEXED ARBITRATION CERTIFICATION**

COMES NOW Plaintiff, by and through her attorneys, Whitener Law Firm, P.A. (Thomas M. Allison, Attorneys at Law) and pursuant to the Second Judicial District Local Rules, Rule LR2-603, certifies that Plaintiff herein DOES seek relief in excess of twenty-five thousand dollars (\$25,000.00) exclusive of punitive damages, interest and attorney's fees.

Respectfully submitted,

WHITENER LAW FIRM, P.A.

/s/ Thomas M. Allison  
Thomas M. Allison  
*Attorneys for Plaintiff*  
4110 Cutler Avenue NE  
Albuquerque, New Mexico 87110  
505/242-3333  
505/242-3322 (fax)  
tm5052002@yahoo.com

FILED IN MY OFFICE  
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5/6/2015 3:14:32 PM  
James A. Noel  
Pam Martinez

STATE OF NEW MEXICO  
COUNTY OF BERNALILLO  
SECOND JUDICIAL DISTRICT COURT

PATRICIA CABRERA,

Plaintiff,

vs.

NO. D-202-CV-2015-03778

WAL-MART STORES EAST, LP,

Defendant.

**NOTICE OF PEREMPTORY ELECTION TO EXCUSE JUDGE**

COMES NOW, the Plaintiff, by and through her attorneys, Whitener Law Firm, P.A. (Thomas M. Allison, Attorney at Law), and pursuant to Rule 1-088.1 of the New Mexico District Court Rules of Civil Procedure, and hereby notifies the Court and the Defendant that she is exercising her statutory right and peremptory election to excuse the Honorable Victor S. Lopez from presiding over the above-captioned cause.

Dated: May 6, 2015

Respectfully submitted,

/s/ Thomas M. Allison  
Thomas M. Allison  
Attorneys for Plaintiff  
4110 Cutler Avenue NE  
Albuquerque, NM 87110  
505/242-3333  
505/242-3322 (fax)  
tm5052002@yahoo.com

I hereby certify that on May 6, 2015,  
I filed the foregoing electronically through  
The Odyssey File & Serve system.

FILED IN MY OFFICE  
DISTRICT COURT CLERK  
5/6/2015 5:21:04 PM  
James A. Noel  
Pam Martinez

STATE OF NEW MEXICO  
BERNALILLO COUNTY  
SECOND JUDICIAL DISTRICT COURT

PATRICIA CABRERA

V.

WAL-MART STORES EAST LP

No. D-202-CV-2015-03778

NOTICE OF JUDGE REASSIGNMENT

The above referenced case has been reassigned to the Honorable Alan Malott, District Judge, Second Judicial District. This reassignment is effective 5/6/2015.



JAMES A. NOEL  
CLERK OF THE DISTRICT COURT

By:

*Pamela Martinez*  
Pamela Martinez

Electronically Filed On: 5/6/2015  
To All Parties Entitled to Notice

STATE OF NEW MEXICO  
COUNTY OF BERNALILLO  
SECOND JUDICIAL DISTRICT COURT

PATRICIA CABRERA,

Plaintiff,

v.

No. D-202-CV-2015-03778

WAL-MART STORES EAST, L.P.,

Defendant.

**ENTRY OF APPEARANCE**

Megan T. Muirhead and Alana M. De Young of Modrall, Sperling, Roehl, Harris & Sisk, P.A., hereby enter their appearance on behalf of Defendant, Wal-Mart Stores East L.P., in the above-captioned and numbered matter.

MODRALL, SPERLING, ROEHL, HARRIS  
& SISK, P.A.

By: /s/ Alana M. De Young  
Megan Muirhead  
Alana M. De Young  
*Attorneys for Wal-Mart Stores East L.P.*  
Post Office Box 2168  
Bank of America Centre  
500 Fourth Street NW, Suite 1000  
Albuquerque, New Mexico 87103-2168  
Telephone: 505-848-1800  
[mmuirhead@modrall.com](mailto:mmuirhead@modrall.com)  
[amd@modrall.com](mailto:amd@modrall.com)



I HEREBY CERTIFY that on the 4<sup>th</sup> day of June, 2015, I submitted for e-filing and service the foregoing document through “Odyssey File & Serve.”

I FURTHER CERTIFY that on such date I served the foregoing to the participants/counsel in the manner indicated below to ensure that they will receive copies of the pleadings submitted for electronic filing:

Via e-mail and U.S. Mail:

Thomas M. Allison  
Whitener Law Firm, P.A.  
4110 Cutler Avenue NE  
Albuquerque, NM 87110  
[tm5052002@yahoo.com](mailto:tm5052002@yahoo.com)

*Attorney for Plaintiff*

MODRALL, SPERLING, ROEHL, HARRIS  
& SISK, P.A.

By: /s/ Alana M. De Young  
Alana M. De Young

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STATE OF NEW MEXICO  
COUNTY OF BERNALILLO  
SECOND JUDICIAL DISTRICT COURT

PATRICIA CABRERA,

Plaintiff,

v.

No. D-202-CV-2015-03778

WAL-MART STORES EAST, L.P.,

Defendant.

**CERTIFICATE OF SERVICE**

We hereby certify that *Defendant Wal-Mart's First Set of Interrogatories, Requests for Production, and Requests for Admission to Plaintiff* and copy of this Certificate of Service were delivered via regular mail and e-mail to counsel for Plaintiff, Thomas M. Allison, Whitener Law Firm, P.A., 4110 Cutler Avenue NE, Albuquerque, NM 87110, [tm5052002@yahoo.com](mailto:tm5052002@yahoo.com), this 4<sup>th</sup> day of June, 2015.

MODRALL, SPERLING, ROEHL, HARRIS  
& SISK, P.A.

By: /s/ Alana M. De Young  
Megan Muirhead  
Alana M. De Young  
*Attorneys for Wal-Mart Stores East L.P.*  
Post Office Box 2168  
Bank of America Centre  
500 Fourth Street NW, Suite 1000  
Albuquerque, New Mexico 87103-2168  
Telephone: 505-848-1800  
[mmuirhead@modrall.com](mailto:mmuirhead@modrall.com)  
[amd@modrall.com](mailto:amd@modrall.com)

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James A. Noel  
Pam Martinez

| SUMMONS                                                                                                                                                                                          |                                                            |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------|
| District Court: <u>Second Judicial District Court</u><br><u>County of Bernalillo, New Mexico</u><br>Court Address: 400 Lomas NW,<br>Albuquerque, NM 87103<br>Court Telephone No.: (505) 841-7425 | Case Number: D-202-CV-2015-03778<br><br>Judge: Alan Malott |
| Plaintiffs<br>Patricia Cabrera,<br>v.<br>Defendant:<br>Wal-Mart Stores East LP,                                                                                                                  | Defendant:<br><br>Wal-Mart Stores East, LP                 |

**TO THE ABOVE NAMED DEFENDANT(S):** Take notice that:

1. A lawsuit has been filed against you. A copy of the lawsuit is attached. The Court issued this Summons.
2. You must respond to this lawsuit in writing. You must file your written response with the Court no later than thirty (30) days from the date you are served with this Summons. (The date you are considered served with the Summons is determined by Rule 1-004 NMRA) The Courts address is listed above.
3. You must file (in person or by mail) your written response with the Court. When you file your response, you must give or mail a copy to the person who signed the lawsuit.
4. If you do not respond in writing, the Court may enter judgment against you as requested in the lawsuit.
5. You are entitled to a jury trial in most types of lawsuits. To ask for a jury trial, you must request one in writing and pay a jury fee.
6. If you need an interpreter, you must ask for one in writing.
7. You may wish to consult a lawyer. You may contact the State Bar of New Mexico for help finding a lawyer at [www.nmbar.org](http://www.nmbar.org); 1-800-876-6657; or 1-505-797-6066.

Dated-at 5/13/2015, New Mexico, this        day of       , 2015.



JAMES A. NOEL  
CLERK OF THE DISTRICT COURT

By: *Tracie Laahy*  
Tracie Laahy  
Deputy Clerk

WHITENER LAW FIRM, P.A.

*Thomas M. Allison*

Electronically Signed

Thomas M. Allison, Esq.  
4110 Cutler Ave NE  
Albuquerque, NM 87110  
(505) 242-3333/Fax (505) 242-3322  
Email Address: [tm5052002@yahoo.com](mailto:tm5052002@yahoo.com)

**THIS SUMMONS IS ISSUED PURSUANT TO RULE 1-004 OF THE NEW MEXICO  
RULES OF CIVIL PROCEDURE FOR DISTRICT COURTS.**

**AFFIDAVIT OF SERVICE**

State of New Mexico

County of Bernalillo

Second Judicial District Court

Case Number: D-202-CV-2015-03778

Plaintiff:

**Patricia Cabrera,**

vs.

Defendant:

**Wal-Mart Stores East LP,**

For:

Thomas Allison

Whitener Law Firm, P.A.

4110 Cutler Ave, N.E.

Albuquerque, NM 87110

Received these papers on the 26th day of May, 2015 at 12:46 pm to be served on **Wal-Mart Stores East Lp, 205 E Bender, Suite 150, Hobbs, NM 88240.**

I, Fabian Jimenez, being duly sworn, depose and say that on the **28th day of May, 2015 at 4:00 pm, I:**

served an **AUTHORIZED** entity by delivering a true copy of the **Summons, Notice of Peremptory Election to Excuse Judge, Notice of Judge Reassignment, Court-Annexed Arbitration Certification, Complaint for Money Damages, Plaintiff's First Set of Interrogatories and Requests for Production to Defendant Wal-Mart Stores East, LP to: Donna Hunter at the address of: 205 E Bender, Suite 150, Hobbs, NM 88240,** who stated they are authorized to accept service for **Wal-Mart Stores East Lp,** and informed said person of the contents therein, in compliance with state statutes.

**Additional Information pertaining to this Service:**

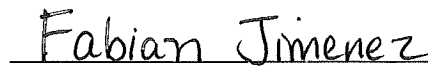
5/28/2015 4:00 pm Fabian Jimenez served Wal-Mart Stores East Lp at 205 E Bender, Suite 150, Hobbs, NM 88240 by hand delivering documents to Donna Hunter, as office manager and authorized agent.

**Description of Person Served:** Age: 50, Sex: F, Race/Skin Color: African Americ, Height: 5'8", Weight: 150, Hair: Black, Glasses: Y

I certify that I am over the age of 18 and have no interest in the above action.

Subscribed and Sworn to before me on the 2nd day of June, 2015 by the affiant who is personally known to me.

  
NOTARY PUBLIC

  
Fabian Jimenez  
Process Server

Our Job Serial Number: MPP-2015007929



OFFICIAL SEAL  
**TABATHA RIVERA**  
Notary Public  
State of New Mexico

My Commission Expires: 7-22-15

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Software, Inc. - Process Server's Toolbox V6.5m

STATE OF NEW MEXICO  
COUNTY OF BERNALILLO  
SECOND JUDICIAL DISTRICT COURT

PATRICIA CABRERA,

Plaintiff,

v.

No. D-202-CV-2015-03778

WAL-MART STORES EAST, L.P.,

Defendant.

**DEFENDANT WAL-MART'S ANSWER TO COMPLAINT FOR MONEY DAMAGES**

Defendant Wal-Mart Stores East, L.P. ("Wal-Mart"), by and through its attorneys of record, Modrall, Sperling, Roehl, Harris & Sisk, P.A. (Megan T. Muirhead and Alana M. De Young), answer Plaintiff's Complaint for Money Damages ("Complaint") as follows:

1. In response to Paragraph 1 of the First Amended Complaint, Wal-Mart lacks specific knowledge or information with which to admit or deny the allegations contained therein, and, therefore, denies the same.

2. In response to Paragraph 2 of the Complaint, Wal-Mart admits only it is a corporation that does business in Bernalillo County, New Mexico.

3. In response to Paragraph 3 of the First Amended Complaint, Wal-Mart lacks specific knowledge or information with which to admit or deny the allegations contained therein, and, therefore, denies the same.

4. Paragraph 4 of the Complaint contains legal conclusions to which no response is required. To the extent a response is deemed necessary, Wal-Mart denies the allegations contained therein.

5. In response to Paragraph 5 of the Complaint, Wal-Mart admits Plaintiff was present at the Wal-Mart store located at 10224 Coors Bypass in Albuquerque, New Mexico on or about May 23, 2014.

6. Wal-Mart denies the allegations contained in Paragraph 6 of the Complaint.

7. Paragraph 7 of the Complaint contains a legal conclusion to which no response is required. To the extent a response is deemed necessary, Wal-Mart denies it owed Plaintiff any duty beyond those set forth under New Mexico statutory or common law.

8. Wal-Mart denies the allegations contained in Paragraph 8 of the Complaint, and in particular denies any “dangerous condition” or hazard existed.

9. Paragraph 9 of the Complaint contains a legal conclusion to which no response is required. To the extent a response is deemed necessary, Wal-Mart denies it owed Plaintiff any duty beyond those set forth under New Mexico statutory or common law. Wal-Mart specifically denies it breached any duty to Plaintiff.

10. Paragraph 10 of the Complaint contains a legal conclusion to which no response is required. To the extent a response is deemed necessary, Wal-Mart denies it breached any duty set forth under New Mexico statutory or common law, and therefore, denies the allegations contained therein.

11. Wal-Mart denies the allegations contained in Paragraph 11 of the Complaint.

12. Wal-Mart denies the allegations contained in Paragraph 12 of the Complaint

13. In response to Paragraph 13 of the Complaint, Wal-Mart states it lacks specific knowledge or information with which to admit or deny the allegations contained therein, and, therefore, denies the same.

14. Wal-Mart denies that Plaintiff is entitled to any of the relief requested in the WHEREFORE paragraph of Plaintiff's Complaint.

15. Wal-Mart further denies each and every allegation not specifically admitted herein, including Plaintiff's prayer for relief, and denies that Plaintiff is entitled to any of the damages or relief sought.

### **AFFIRMATIVE AND OTHER DEFENSES**

#### **FIRST DEFENSE**

As a further, separate, and alternative defense, Defendant Wal-Mart states the Complaint should be dismissed to the extent it fails to state a claim upon which relief can be granted.

#### **SECOND DEFENSE**

As a further, separate, and alternative defense, Wal-Mart states to the extent Plaintiff has suffered any damage or injury, which Defendant expressly denies, Plaintiff's claim should be dismissed to the extent Plaintiff and/or third parties, over whom Wal-Mart is not responsible, proximately caused and are liable for any such injury or damage.

#### **THIRD DEFENSE**

As a further, separate, and alternative defense, Wal-Mart states to the extent that Plaintiff has suffered any damages, which Defendant expressly denies, Plaintiff's damages should be barred or reduced to the extent Plaintiff has failed to mitigate the damages.

#### **FOURTH DEFENSE**

As a further, separate, and alternative defense, Wal-Mart states to the extent that it is liable for any alleged damage or injury, which it expressly denies, the negligence and fault of persons and entities other than Wal-Mart (whether or not parties to this action) was a proximate cause of Plaintiff's alleged injuries and damages, and recovery that might otherwise ensue must either be barred or reduced accordingly under the doctrine of comparative negligence and fault.

#### **FIFTH DEFENSE**

As a further, separate, and alternative defense, Wal-Mart states the damages of which Plaintiff complains should be barred or reduced to the extent the damages were the proximate result of an independent intervening cause.

#### **SIXTH DEFENSE**

As a further, separate, and alternative defense, Defendant states that Plaintiff's claims are barred in whole or in part to the extent Plaintiff failed to meet her common law and statutory duties to look out and exercise reasonable care for her own safety.

#### **SEVENTH DEFENSE**

As a further, separate, and alternative defense, Defendant states that the claims of Plaintiff are barred, and/or her damages should be apportioned, to the extent the alleged injuries claimed by Plaintiff are the proximate result of a pre-existing condition and/or subsequent injury.

Defendant Wal-Mart reserves its right to add any and all additional defenses identified through the course of discovery.

**WHEREFORE**, having fully answered the Complaint, Defendant Wal-Mart respectfully requests the Plaintiff's Complaint be dismissed with prejudice or in the alternative, judgment be



entered in favor of Wal-Mart, and that Wal-Mart recover its costs and other further relief as the Court deems just and proper.

Respectfully submitted:

MODRALL, SPERLING, ROEHL, HARRIS  
& SISK, P.A.

By: /s/ Alana M. De Young  
Megan Muirhead  
Alana M. De Young  
*Attorneys for Wal-Mart Stores East L.P.*  
Post Office Box 2168  
Bank of America Centre  
500 Fourth Street NW, Suite 1000  
Albuquerque, New Mexico 87103-2168  
Telephone: 505-848-1800  
[mmuirhead@modrall.com](mailto:mmuirhead@modrall.com)  
[amd@modrall.com](mailto:amd@modrall.com)

I HEREBY CERTIFY that on the 23<sup>rd</sup> day of June, 2015, I submitted for e-filing the foregoing document through "Odyssey File & Serve."

I FURTHER CERTIFY that on such date I served the foregoing to the participants/counsel in the manner indicated below to ensure that they will receive copies of the pleadings submitted for electronic filing:

Via e-mail:

Thomas M. Allison  
Whitener Law Firm, P.A.  
4110 Cutler Avenue NE  
Albuquerque, NM 87110  
[tm5052002@yahoo.com](mailto:tm5052002@yahoo.com)

*Attorney for Plaintiff*

MODRALL, SPERLING, ROEHL, HARRIS  
& SISK, P.A.

By: /s/ Alana M. De Young  
Alana M. De Young

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STATE OF NEW MEXICO  
COUNTY OF BERNALILLO  
SECOND JUDICIAL DISTRICT COURT

PATRICIA CABRERA,

Plaintiff,

v.

No. D-202-CV-2015-03778

WAL-MART STORES EAST, L.P.,

Defendant.

**JURY DEMAND**

Defendant Wal-Mart Stores East, L.P., by and through its attorneys of record, Modrall, Sperling, Roehl, Harris & Sisk, P.A. (Megan T. Muirhead and Alana M. De Young), hereby demand trial by jury of twelve (12) persons in the above entitled and numbered cause on all legal issues so triable. With this request, Defendant herewith tenders to the Clerk of Court the sum of \$300.00. Plaintiff did not demand trial by jury in her Complaint.

Respectfully submitted:

MODRALL, SPERLING, ROEHL, HARRIS  
& SISK, P.A.

By: /s/ Alana M. De Young

Megan Muirhead  
Alana M. De Young  
*Attorneys for Wal-Mart Stores East L.P.*  
Post Office Box 2168  
Bank of America Centre  
500 Fourth Street NW, Suite 1000  
Albuquerque, New Mexico 87103-2168  
Telephone: 505-848-1800  
[mmuirhead@modrall.com](mailto:mmuirhead@modrall.com)  
[amd@modrall.com](mailto:amd@modrall.com)

I HEREBY CERTIFY that on the 23<sup>rd</sup> day of June, 2015, I submitted for e-filing the foregoing document through “Odyssey File & Serve.”

I FURTHER CERTIFY that on such date I served the foregoing to the participants/counsel in the manner indicated below to ensure that they will receive copies of the pleadings submitted for electronic filing:

Via e-mail:

Thomas M. Allison  
Whitener Law Firm, P.A.  
4110 Cutler Avenue NE  
Albuquerque, NM 87110  
[tm5052002@yahoo.com](mailto:tm5052002@yahoo.com)

*Attorney for Plaintiff*

MODRALL, SPERLING, ROEHL, HARRIS  
& SISK, P.A.

By: /s/ Alana M. De Young  
Alana M. De Young

Y:\dox\client\75301\0452\PLEADING\W2469524.DOCX

STATE OF NEW MEXICO  
COUNTY OF BERNALILLO  
SECOND JUDICIAL DISTRICT COURT

PATRICIA CABRERA,

Plaintiff,

v.

No. D-202-CV-2015-03778

WAL-MART STORES EAST, L.P.,

Defendant.

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on the 1<sup>st</sup> day of July 2015, Plaintiff, Patricia Cabrera's Answers and Objections to Defendant's First Set of Interrogatories to Plaintiff, and Plaintiff, Patricia Cabrera's Responses and Objections to Defendant's Requests For Production and Request for Admission, as well as a copy of this certificate, were mailed to: Alana M. De Young of Modrall, Sperling, Roehl, Harris & Sisk, P.A.; 500 Fourth Street NW, Suite 1000; Albuquerque, NM 87103-2168.

Respectfully submitted,

WHITENER LAW FIRM, P.A.

 Electronically Signed

---

Thomas M. Allison  
Attorneys for Plaintiff  
4110 Cutler Avenue NE  
Albuquerque, NM 87110  
505/242-3333  
505/242-3322 (fax)  
[tm5052002@yahoo.com](mailto:tm5052002@yahoo.com)